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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/679,025      | 10/03/2003  | Jeffrey D. Antos     | 1088.008            | 1502             |

7590 02/08/2005

Sampson & Associates, P.C.  
50 Congress Street  
Boston, MA 02109

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| EXAMINER |
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COLLINS, DOLORES R

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| ART UNIT | PAPER NUMBER |
|----------|--------------|

3711

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/679,025

**Applicant(s)**

ANTOS, JEFFREY D.

**Examiner**

Dolores R. Collins

**Art Unit**

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burk (149) in view of Walton (512).

Burk discloses a Card stacking Game.

#### Regarding claim 1

Burk teaches a plurality of cards (see abstract & col. 2, lines 55-64), a card holder with a plurality of slots that are sized and shaped to receive cards (see figures 2-4), he implicitly teaches slots being disposed so that the holder is symmetrical about three orthogonal planes (see figure 1) and slots with opposing projections configured to engage the cards (col. 2, lines 55-64).

Burk fails to explicitly teach cardholders that are spherical. Walton (512) discloses Joints. His joints are use for supporting one or more sheets of material (see abstract) of which cards could be one such

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material. Based on the meaning disclosed by Merriam Webster's Collegiate dictionary, a sphere is taken to mean "a solid bounded by a surface consisting of all points as a give distance from a point constituting its center" together with the cross section of the joint shown in figure 1a, Walton teaches a spherical surface. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the holders of Burk with those taught by Walton in order to provide an extended variety of structures for his game.

Burk further fails to explicitly teach slots being disposed so that the holder is symmetrical about three orthogonal planes. Walton teaches joints that are symmetrical about three orthogonal planes (see figures 1 & 2 and col. 2, lines 16-21). It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the holders of Burk with those taught by Walton in order to provide a more solid construction of his stacked cards.

Regarding claims 2, 3-4 & 18-19

Burk teaches a plurality of cards (see abstract & col. 2, lines 55-64), a card holder with a plurality of slots that are sized and shaped to receive cards (see figures 2-4), he implicitly teaches slots being disposed so that the holder is symmetrical about three orthogonal planes (see figure 1) and

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slots with opposing projections configured to engage the cards (col. 2, lines 55-64).

Burk further fails to explicitly teach slots being disposed so that the holder is symmetrical about three orthogonal planes. Walton teaches joints that are symmetrical about three orthogonal planes (see figures 1 & 2 and col. 2, lines 16-21). It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the holders of Burk with those taught by Walton in order to provide a more solid construction of his stacked cards.

Regarding claim 5

Burk teaches a plurality of cardholders (col. 2, lines 55-64).

Regarding claim 6

Burk teaches holders having slots with opposing projections configured to engage the cards (col. 2, lines 55-64).

Regarding claims 7 & 8

Burk teaches holders having slots with opposing projections that offset each other and that are also opposite each other (see figure 1 (11)).

Regarding claims 9 –12

Burk fails to teach the material from which his holders are made.

Walton discloses, in col. 1, lines 18-19, how his cards holders are fabricated (i.e., using plastics). Plastics are considered, resilient and are known to be polymeric in nature. It would be obvious in view of Walton to use a similar method of fabricating for ease of construction.

Regarding claims 13 & 17

Burk teaches holders that are one-piece solid devices (see figures 1 & 4).

Regarding claims 14 & 15

Burk teaches holders that are molded devices (see figure 3).

Regarding claim 16

Burk fails to explicitly teach teaches holders that are hollow.

Walton teaches holders that are hollow (see abstract). It would have been obvious in view of Walton to modify the holders of Burk and make them hollow in order to provide a structure with a lighter frame for movement.

Regarding claim 20

Burk teaches a plurality of cards (see abstract & col. 2, lines 55-64), a card holder with a plurality of slots that are sized and shaped to receive cards (see figures 2-4), he implicitly teaches slots being disposed so that the holder is symmetrical about three orthogonal planes (see figure 1) and slots with opposing projections configured to engage the cards (col. 2, lines 55-64).

Burk fails to explicitly teach cardholders that are spherical. Walton (512) discloses Joints. His joints are use for supporting one or more sheets of material (see abstract) of which cards could be one such material. Based on the meaning disclosed by Merriam Webster's Collegiate dictionary, a sphere is taken to mean "a solid bounded by a surface consisting of all points as a give distance from a point constituting its center" together with the cross section of the joint shown in figure 1a, Walton teaches a spherical surface. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the holders of Burk with those taught by Walton in order to provide an extended variety of structures for his game.

Burk fails to teach the material from which his holders are made. Walton discloses , in col. 1, lines 18-19, how his cards holders are

fabricated (i.e., using plastics) . It would be obvious in view of Walton to use a similar method of fabricating for ease of construction.

Burk further fails to explicitly teach slots being disposed so that the holder is symmetrical about three orthogonal planes. Walton teaches joints that are symmetrical about three orthogonal planes ( see figures 1 & 2 and col. 2, lines 16-21). It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the holders of Burk with those taught by Walton in order to provide a more solid construction of his stacked cards.

### ***Response to Arguments***

Applicant's arguments filed 11/04/04 have been fully considered but they are not persuasive. Applicant has amended claims 2, 18 & 20 to include language indicating that each of the hemispheres is substantially identical. Applicant further argues that the cardholders taught by the references, are not spherical. Based on applicant's admission on page 4 of the specification, the spherical cardholders are mere design choice. Applicant further admitted on page 6 of the specification that there could be any number of slots in the cardholder and any arrangement could be used.

Applicant's claims, as amended do not appear to place this application in condition for allowance.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and are cited to show the state of art with respect to features of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ***Dolores R. Collins*** whose telephone number is **(571) 272-4421**. The examiner can normally be reached on 8.00 A.M. - 4:30 P.M..

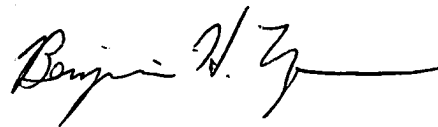
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Greg Vidovich** can be reached on **(571) 272-4415**. The fax phone number for the organization where this application or proceeding is assigned is **703-872-9306**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866-217-9197** (toll-free).

  
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2/3/05



Benjamin H. Layno  
Primary Examiner